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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

SINGLE MEMBER APPEAL BRANCH

Appeal No. E/573 /2009 – SM[BR]

Date 15/12/2010

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S LLOYD ELECTRIC & ENGINEERING LTD.,
A-146 (B&C), RIICO INDUSTRIAL AREA, BHIWADI.

M/S LLOYD ELECTRIC & ENGINEERING LTD., Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1435 / 2010-SM[BR] dated 20.10.2010 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
   C.C.E. JAIPUR I
   N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.
2. Adv. / Consult
   MR.V. LAXMIKUMARAN
   B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029
3. S.D.R
4. ~~J.C.D.R.~~
5. Bar association. CESTAT. New Delhi
6. Director Publications. Customs. Excise. I.P. Estate. New Delhi
7. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9. M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
10. Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi - 110005
11. Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-15
12. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
13. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(SM Appeal Branch)

CUS . EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
Court No.IV

E/Appeal No 573/09-SM

(Arising out of order in appeal No.230/DK/CE/JPR.I/08 dated 16.11.2008 passed by the Commissioner of Central Excise (Appeals), Jaipur)

Date of Hearing: 20.10.2010

For approval and signature:

Hon'ble Shri Ashok Jindal, Member (Judicial)

1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982?
2. Whether it should be released under Rule 27 of the CESTAT(Procedure) Rules, 1982 for publication in any authoritative report or not?
3. Whether Their Lordships wish to see the fair copy Of the order?
4. Whether Order is to be circulated to the Departmental Authorities?

M/s Lloyld Electric & Engg Ltd	Appellants
Vs	
CCE, Jaipur-I	Respondent

Appeared for the Appellant: Shri B.L. Narasimhan, Advocate
Shri Atul Gupta, Advocate
Appeared for the Respondent: Shri S.K. Bhaskar, DR

Coram: **Hon'ble Shri Ashok Jindal ,Member (Judicial)**

Final ORDER - 1435/2010 SM(BR)

Per Ashok Jindal:

The appellant has filed this appeal for denial of cenvag credit availed by them on the basis of bill of entry issued by courier.

2. The facts of the case are that during the course of internal audit, the records of the appellant, an allegation was made that they have availed the cenvat credit on supplementary bills of entry which was not duly endorsed by the customs officer in terms of Rule 9 of Cenvat Credit Rules, 2004. Accordingly, a show cause notice was issued and the same was adjudicated by denying the credit taken by the appellants alongwith interest and equivalent amount of penalty thereon.

3. On appeal before the Commissioner (Appeals), he also affirmed the finding of the adjudicating authority and reduced the penalty to the extent of Rs.5,000/-. The appellant is aggrieved from denial of credit of Rs. 53,867/-. Therefore, the appellant field this appeal before this Tribunal.

4. The learned Advocate for the appellants submitted that they produced the original bill of entry before the adjudicating authority as well as before the lower appellate authority which were duly endorsed by the customs officer and without examining the same, they have given the finding that these bills of entry are not duly endorsed by the customs officer. He produced the original bill of entry which are duly endorsed by the customs officer (appraiser) on 24th May 2006 and 1.3.2006. He further submitted that they have complied with the provisions of Rule 9 of Cenvat Credit Rules 2004 which the lower authorities have failed to consider. Hence the denial of cenvat credit by the lower authorities are not correct. Hence the impugned order be set aside for denial of cenvat credit.

5. On the other hand, learned DR supported the impugned order.

6. Heard. On careful examination of the bill of entry produced by the learned Counsel for the appellant, I find that there is an endorsement by the customs officers in the bills of entry which are duly stamped by the customs officer. Hence the charge that these bills are not endorsed is not sustainable.

7. In view of the above finding, the impugned order is set aside for denial of cenvat credit as per the impugned order and the penalty is also reduced to Rs.2,000/-. With these observations, the appeal is partly allowed.

(ASHOK JINDAL)
Judicial Member

MPS*